

October 13, 2023

By Electronic Delivery

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *New York Independent System Operator, Inc.’s Compliance Filing: Docket No. RM22-13-000, Order No. 895*

Dear Secretary Bose:

In compliance with Order No. 895 (“Order No. 895” or “the Order”) issued by the Federal Energy Regulatory Commission (“Commission”),¹ the New York Independent System Operator, Inc. (“NYISO”) respectfully submits revisions to its Market Administration and Control Area Services Tariff (“Services Tariff”) and Open Access Transmission Tariff (“OATT”)² with this filing (“Compliance Filing”).

In Order No. 895, the Commission amended its regulations to require that each Commission-jurisdictional regional transmission organization (“RTO”) and independent system operator (“ISO”)³ have tariff provisions that (a) permit it to exchange market participant credit-related information with other RTOs/ISOs; (b) permit it to use market participant credit-related information received from other RTOs/ISOs to the same extent and for the same purposes that it may use credit-related information from its own market participants; and (c) require the receiving RTO/ISO to treat credit-related information from another RTO/ISO as confidential under the terms of its tariff or other governing document.⁴ The NYISO’s proposed tariff revisions fully comply with the Commission’s requirements in Order No. 895. The NYISO reviewed the proposed tariff revisions with its stakeholders prior to submitting this filing.

¹ *Requiring Tariff Provisions for Credit-Related Information Sharing*, Order No. 895, 88 Fed. Reg. 40696 (June 22, 2023) 183 FERC ¶ 61,193 (2023) (“Order No. 895”).

² Capitalized terms not otherwise defined herein shall have the meaning specified in the Services Tariff and OATT.

³ References to RTOs/ISOs in this Compliance Filing relate to Commission-jurisdictional entities, consistent with the Commission’s determination that the sharing of credit-related information should not include non-jurisdictional market operators.

⁴ See Order No. 895 PP 19-22; 18 C.F.R. § 35.47(h) (2023).

The NYISO respectfully requests that the tariff revisions proposed in this filing become effective the day immediately following the Commission's issuance of an order accepting this Compliance Filing.

I. Documents Submitted

1. A clean version of the proposed revisions to the Services Tariff ("Attachment I");
2. A blacklined version of the proposed revisions to the Services Tariff ("Attachment II");
3. A clean version of the proposed revisions to the OATT ("Attachment III"); and
4. A blacklined version of the proposed revisions to the OATT ("Attachment IV").

II. Communications and Correspondence

All communications and service in this proceeding should be directed to:

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III. Background

A. Credit Risk Management Technical Conference

On February 25 and 26, 2021, the Commission convened a technical conference to discuss principles and best practices for credit risk management in organized wholesale electric markets. One of the topics discussed at the technical conference was information sharing among RTOs/ISOs. The Commission considered questions such as whether RTOs/ISOs are able to share information with one another, whether there are rules the Commission should modify to

facilitate the exchange of information, and what impact sharing information would have on the mitigation of credit risk.⁵

The NYISO joined the ISO/RTO Council (“IRC”) in filing post-technical conference comments on information sharing.⁶ The IRC recommended that the Commission adopt a final rule authorizing RTOs/ISOs to amend their tariffs to allow for the sharing of credit-related information between RTOs/ISOs for the purpose of credit risk management, as long as the information is subject to confidentiality provisions.⁷ The IRC stated that such sharing would improve coordination and communication among RTOs/ISOs and would enhance their ability to respond to and mitigate credit risks.⁸ The IRC stated that the Commission’s adoption of such a rule could overcome the existing barriers to information sharing—specifically, the lack of a Commission policy favoring credit-related information sharing and lack of uniformity among the RTO/ISO tariffs on the issue of confidentiality of shared information.⁹

On July 28, 2022, the Commission issued a notice of proposed rulemaking (“NOPR”), preliminarily finding that RTOs/ISOs’ inability to share credit-related information and tariff provisions that prohibit such sharing are unjust and unreasonable.¹⁰ The Commission proposed in the NOPR to amend its regulations to require RTOs/ISOs to implement tariff provisions that permit them to share credit-related information for the purpose of credit risk management and mitigation.¹¹ The Commission solicited initial and reply comments on the NOPR.

On October 7, 2022, the NYISO joined the IRC’s initial comments to the NOPR, stating “the Commission’s proposal will enhance RTOs’/ISOs’ ability to accurately assess market participants’ credit exposure and common risks that could impact a number of the organized wholesale electric markets. In addition, the Commission rule will assist RTOs/ISOs in their efforts to respond to credit events more quickly and effectively, thereby minimizing the overall credit-related risks of unexpected defaults by market participants in organized wholesale electric

⁵ *RTO/ISO Credit Principles and Practices*, Supplemental Notice of Technical Conference, Docket No. AD21-6-000 *et al.* (February 10, 2021).

⁶ *RTO/ISO Credit Principles and Practices*, Comments of the ISO/RTO Council, Docket No. AD21-6-000 *et al.* (June 7, 2021).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Credit-Related Information Sharing in Organized Wholesale Electric Markets*, Notice of Proposed Rulemaking, 180 FERC ¶ 61,048 (July 28, 2022) (“NOPR”).

¹¹ *Id.* at PP 14-20.

markets.”¹² The NYISO joined the IRC in reply comments submitted to the Commission on November 7, 2022.¹³

B. Order No. 895 Overview

On June 15, 2023, the Commission issued Order No. 895 to amend its regulations requiring RTOs/ISOs to have tariff provisions that permit credit-related information sharing to ensure the credit practices in those markets result in jurisdictional rates that are just and reasonable.¹⁴ Order No. 895 requires that each RTO/ISO’s tariff (a) permit it to exchange market participant credit-related information with other RTOs/ISOs; (b) permit it to use market participant credit-related information received from other RTOs/ISOs to the same extent and for the same purposes that it may use credit-related information from its own market participants; and (c) require the receiving RTO/ISO to treat credit-related information from another RTO/ISO as confidential under the terms of its tariff or other governing document.¹⁵ The Commission found that this sharing will benefit market participants because it will help RTOs/ISOs carry out their credit risk mitigation efforts and reduce the risk of default.¹⁶

IV. Proposed Tariff Provisions

In this Compliance Filing, the NYISO proposes adding both a new section to Attachment K of the Services Tariff to provide for sharing credit-related information with other RTOs/ISOs and a revision to Attachment F, Section 12.4 of the OATT to address the Commission’s confidentiality requirement. Together, these proposed tariff revisions meet the requirements of Order No. 895 because the provisions (a) permit the NYISO to exchange market participant credit-related information with other RTOs/ISOs; (b) permit the NYISO to use market participant credit-related information received from other RTOs/ISOs to the same extent and for the same purposes that it may use credit-related information from its own market participants; and (c) require the NYISO to treat credit-related information from another RTO/ISO as confidential under the terms of its tariff or other governing document.¹⁷

A. Proposed New Attachment K, Section 26.1.6 of the Services Tariff: Credit Information Sharing Under Order No. 895

The NYISO’s proposed new Attachment K section addresses all three requirements of Order No. 895. First, the section permits the NYISO to “share credit-related information of

¹² *Credit-Related Information Sharing in Organized Wholesale Electric Markets*, Initial Comments of the ISO/RTO Council at 2 (October 7, 2022).

¹³ *Credit-Related Information Sharing in Organized Wholesale Electric Markets*, Reply Comments of the ISO/RTO Council (November 7, 2022).

¹⁴ Order No. 895 at P 1.

¹⁵ *See id.* at P 20; 18 C.F.R. § 35.47(h) (2023).

¹⁶ Order No. 895 at P 21.

¹⁷ *See id.* at P 20; 18 C.F.R. § 35.47(h) (2023).

Customers, applicants seeking to become Customers, and their Affiliates with Commission-jurisdictional regional transmission organizations and independent system operators for the purpose of credit risk management and mitigation.”¹⁸ The provision includes the examples of credit-related information included in Order No. 895, but states that such information “includes, but is not limited to” these examples. This provision is consistent with the Commission’s determination that the list of examples in Order No 895 “is illustrative and . . . [not] a restrictive or exclusive list.”¹⁹

Second, the proposed provision permits the NYISO to use credit-related information received from other RTOs/ISOs “to the same extent and for the same purpose that it may use information from its Customers and applicants seeking to become Customers under the terms of this Tariff and the OATT.”²⁰

Finally, the proposed tariff revisions require the NYISO to “treat material received under this provision as Confidential Information.” As discussed below, the NYISO proposes to revise Attachment F, Section 12.4 of the OATT relating to Confidential Information to be aligned with the new credit-related information sharing provision in the Services Tariff.

B. Proposed Revisions to Attachment F, Section 12.4 of the OATT: Treatment of Confidential and Transmission System Information

The NYISO’s treatment of Confidential Information is governed by Attachment F, Section 12.4 of the OATT: Treatment of Confidential and Transmission System Information. The NYISO is prohibited from disclosing Confidential Information to any Market Participant, and ISO Employees are required to report improper disclosures of Confidential Information to the NYISO’s compliance officer.²¹ These procedures do not, however, apply to the circumstances enumerated in Attachment F, Section 12.4, such as the communication of Transmission System Information between the NYISO and other power pools or ISOs.²² The NYISO proposes to add to this list “disclosures by the ISO that are authorized under ISO Services Tariff . . . Attachment K Section 26.1.6”²³ to clarify that the procedures applicable to Confidential Information do not apply to disclosures of credit-related information to other RTOs/ISOs as authorized under Attachment K, Section 26.1.6 of the Services Tariff. Under proposed Attachment K, Section 26.1.6, the NYISO would treat any credit-related information

¹⁸ Proposed Services Tariff Attachment K, Section 26.1.6. Order No. 895 uses the term “prospective market participants” rather than applicants. The NYISO used the term “applicants seeking to become Customers” in proposed Attachment K, Section 26.1.6 for consistency with the terms in Section 9 of the Services Tariff relating to applications and registration.

¹⁹ Order No. 895 at P 30.

²⁰ Proposed Services Tariff Attachment K, Section 26.1.6.

²¹ OATT Attachment F, Section 12.4.

²² *Id.*

²³ Proposed OATT Attachment F, Section 12.4.

received from another RTO/ISO as Confidential Information and the procedures in Attachment F, Section 12.4 of the OATT would apply to the received information.

V. Effective Date

The NYISO respectfully requests that the Commission accept the tariff revisions proposed in this filing to become effective the day immediately following the Commission's issuance of an order accepting this Compliance Filing.

VI. Service

The NYISO will send an electronic copy of this filing to the official representative of each party to this proceeding, to the New York State Public Service Commission, and to the New Jersey Board of Public Utilities. In addition, a complete copy of this filing will be posted on the NYISO's website at www.nyiso.com, and the NYISO will send an electronic link to this filing to the official representative of each of its customers and to each participant on its stakeholder committees.

VII. Conclusion

The NYISO respectfully requests that the Commission accept this Compliance Filing, without modification, to become effective the day immediately following the Commission's acceptance.

Respectfully submitted,

/s/ Amie Jamieson

Amie Jamieson, Senior Attorney/Registered In-House Counsel
New York Independent System Operator, Inc.

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